IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1357 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VANDANBHAI DHULAIBHAI VASAVA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1357 of 2004

MR CS UPADHYAY for Petitioner No. 1

MR MC UPADHYAY for Petitioner No. 1

MR SP HASURKAR, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 17/01/2005

ORAL JUDGEMENT

Rule. Learned AGP Mr.S.P.Hasurkar waives service of notice of rule on behalf of the respondents. At the

joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. This petition is pressed only for the short relief to the effect that the Revisional Authority should consider the revision of the petitioner on merits which was rejected by the order dated 3rd September 2003. It is not in dispute that the revision petition of the petitioner came to be disposed of on the ground that the same is belated. It is also not in dispute that revision came to be filed beyond the period of limitation prescribed under the rules. Counsel for the petitioner, however, submits that the petitioner had explained the delay in approaching the revisional authority belatedly and that in the facts of the present case, in the interest of justice, the revision should have been considered on merits instead of rejecting the same solely on the ground of delay.

3. Learned AGP is unable to oppose these contentions of the counsel for the petitioner.

4. In the facts of the present case, therefore, the Revisional Authority is directed to consider the revision petition of the petitioner dated 1.4.03 as at Annexure J to this petition on merits ignoring the delay caused in filing the petition. For the above purpose, the impugned order dated 3.9.03 is set aside. The revision may be disposed of on merits and the outcome may be communicated to the petitioner.

5. With these directions, the petition is disposed of. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)
(vjn)